



UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

CHRISTOPHER SURICO,
Petitioner,
v.
GARY SANDOR, Warden,
Respondent.

Case No. CV 11-06613 JHN (AN)

ORDER ACCEPTING THE FINDINGS
AND RECOMMENDATION OF THE
UNITED STATES MAGISTRATE JUDGE

Pursuant to 28 U.S.C. § 636, the Court has reviewed the file, including the Magistrate Judge's Report and Recommendation ("R&R") and Petitioner's Objections, which are erroneously titled as a "Reply" to the R&R (dkt. 23). Further, the Court has completed a *de novo* review of those portions of the R&R to which Petitioner has objected.

IT IS ORDERED that:

1. The Objections are overruled. Petitioner merely re-argues the trial evidence and attempts to cast it in a light favorable to his position. But as stated in the R&R, a reviewing court may not second-guess decisions the jury made in the course of determining the credibility of witnesses, resolving conflicts in the testimony, weighing the evidence, and drawing reasonable inferences from proven facts. *Jackson v. Virginia*,

1 443 U.S. 307, 319, 99 S. Ct. 2781 (1979). Petitioner's repeated requests for the Court
2 to review the trial transcript (Objections at 2, 5) are also overruled because Petitioner
3 ignores the part of the R&R that expressly reports the Magistrate Judge conducted "an
4 independent review of the trial transcript." (R&R at 6.) Further, Petitioner has failed to
5 demonstrate any part of the Magistrate Judge's factual determinations based upon his
6 independent review of the record were inaccurate or erroneous. (R&R at 6.)
7 Consequently, Petitioner's repeated requests for review of the record are frivolous. The
8 Court accepts all of the findings and recommendation of the R&R.

9 2. Judgment shall be entered denying the Second Amended Petition and
10 dismissing this action with prejudice.

11 3. All motions are denied as moot and terminated.

12 IT IS FURTHER ORDERED that the clerk of the Court shall serve a copy of this
13 Order and the Judgment on all counsel or parties of record.

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16 Dated: April 30, 2012


JACQUELINE H. NGUYEN
UNITED STATES DISTRICT JUDGE